

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DARREN GILBERT,

Plaintiff

v.

SHAIBI ABDULGAWI, et. al.,

Defendants

Case No. 1:21-cv-1304 AWI SAB

ORDER ON THE PARTIES'  
STIPULATION TO CONSOLIDATE  
AND FILE AMENDED COMPLAINT

(Doc. No. 41)

On June 21, 2022, the Court related and reassigned this case with *Gilbert v. Doctor's Choice Modesto LLC*, 1:21-CV-0690 AWI SAB. Prior to relating the cases, the parties who have appeared in both related cases filed a stipulation to consolidate and amend the active complaint.<sup>1</sup> See Doc. No. 41. After consideration, the Court will give effect to the parties' stipulation. Per the stipulation, this case will be consolidated with *Doctor's Choice Modesto* and Plaintiff will file his amended complaint.<sup>2</sup> With the consolidation of this case with *Doctor's Choice Modesto*, the Court will direct the Clerk to close this case and direct the parties to make all further filings in the newly consolidated *Doctor's Choice Modesto* docket.

<sup>1</sup> There is a pro se defendant in this, Shaibi Abdulqawi, who has not joined the stipulation. However, the Clerk made an entry of default against Shaibi Abdulqawi. With the entry of default, the factual allegations of the complaint, except those relating to damages, will be taken as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987). Until the default is set aside, see Fed. R. Civ. P. 55(c); *Franchise Holding II, LLC v. Huntington Rests. Grp., Inc.*, 375 F.3d 922, 925 (9th Cir. 2004), the Court does not find the absence of Shaibi Abdulqawi on the stipulation to be significant or detrimental.

<sup>2</sup> The Court notes that "the law is clear that an act of consolidation does not affect any of the substantive rights of the parties." *J.G. Link & Co. v. Continental Cas. Co.*, 470 F.2d 1133, 1138 (9th Cir. 1972); see also *Schnabel v. Lui*, 302 F.3d 1023, 1034-35 (9th Cir. 2002).

Accordingly, IT IS HEREBY ORDERED that:

1. Pursuant to the parties' stipulation, this case is CONSOLIDATED AND MERGED with *Gilbert v. Doctor's Choice Modesto LLC*, 1:21-CV-0690 AWI SAB for all purposes;
2. All future filings and correspondences shall use case number 1:21-CV-0690 AWI SAB;
3. The Clerk shall transfer Doc. Nos. 1, 2, 7, 19, 21, 26, 31, 33, 38, 39, 41, and 42 from the docket of this case to the docket of *Gilbert v. Doctor's Choice Modesto LLC*, 1:21-CV-0690 AWI SAB;
4. The Clerk shall administratively CLOSE this case;<sup>3</sup>
5. The Clerk shall file a copy of this order in Case No. 1:21-CV-0690 AWI SAB; and
6. Within five (5) days of service of this order, Plaintiff shall file his amended complaint (Doc. No. 42) in Case No. 1:21-CV-0690 AWI SAB.

IT IS SO ORDERED.

Dated: June 23, 2022

  
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SENIOR DISTRICT JUDGE

<sup>3</sup> The Court notes that administratively closing this case has no impact whatsoever on the merits.